



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2005 Assembly Bill 892**

**Assembly Substitute  
Amendment 3**

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*Assembly Bill 892* creates an income and franchise tax credit for sales and use taxes paid on the purchase of Internet equipment used in the broadband market.

*Assembly Substitute Amendment 3* converts the income and franchise tax credit in the bill to an exemption on state sales and use tax and an income tax credit. The conditions, limits, and approval procedures for the sales and use tax exemption and income tax credit in the substitute amendment include the following:

- The exemption and tax credit apply to the purchase of “Internet equipment used in the broadband market.” This equipment is defined to be equipment that is capable of transmitting data packets or Internet signals at speeds of at least 200 kilobytes per second in either direction.
- For a purchaser of Internet equipment used in the broadband market to receive the exemption, the following conditions must be met:
  - The purchaser must certify to the Department of Commerce, that the purchaser will, by July 1, 2009, make an investment that is reasonably calculated to increase broadband Internet availability in Wisconsin.
  - The Department of Commerce must certify the purchaser as eligible for the exemption.
- For a purchaser of Internet equipment used in the broadband market to receive the tax credit, the purchaser must have claimed the sales and use tax exemption described above and be certified by the Department of Commerce as eligible for the tax credit.

- If the Department of Commerce certifies that a business is eligible for the exemption or the exemption and the credit, the department must determine the maximum amount of the exemption and tax credit that the business may claim.
  - The Department of Commerce may only allocate a tax exemption and, if claimed, a tax credit to a business if the allocation is likely to increase the availability of broadband Internet service areas in Wisconsin that are not served by a broadband Internet service provider or are served by not more than one broadband Internet service provider, as determined by the department.
  - The total amount of sales and use tax exemptions and income tax credits that the department may allocate to all eligible businesses may not exceed \$7.5 million.
  - The maximum amount of the income tax credit is the amount of the sales and use tax exemption certified by the Department of Commerce, up to the amount of the purchaser's income tax. This credit may be claimed in each taxable year for two years, beginning in the first taxable year following the taxable year in which the purchaser claims the sales and use tax exemption.
  - The department's certifications and allocations are subject to a 14-day passive review by the Joint Committee on Finance. The department must initiate this review process by submitting, no later than 10 days after completing its certifications and allocations, a report to the Joint Committee identifying the businesses it has certified and the maximum amount of tax credits and exemptions each business may claim.
- The Department of Commerce's certification and allocation procedures are subject to the following:
  - The department must implement a program to make its certifications not later than December 31, 2006.
  - The department must complete its certifications and allocations not later than July 1, 2007.
  - The department may promulgate emergency rules to administer the certifications and allocations without providing a finding of emergency. If promulgated, these emergency rules remain in effect until the sooner of January 1, 2008 or the date the Department of Commerce notifies the Department of Revenue of its certifications and allocations.
- Every person who is required to make an investment as a condition of receiving the exemption must, within 60 days after the end of the year in which the investment is made, file a report with the Department of Commerce that provides a detailed description of the investment, including the amount invested. The Department of Commerce must then provide copies of the report to the Departments of Administration and Revenue and the Public Service Commission.

- In general, the substitute amendment takes effect on December 1, 2006. However, the creation of the sales and use tax exemption takes effect on July 1, 2007. Thus, the Department of Commerce may implement its certification program and adopt any emergency rules after December 1, 2006, but a purchaser of Internet equipment used in the broadband market may not receive the exemption until, at the earliest, July 1, 2007 and may not receive the tax credit until a later date based on the purchaser's tax year, as specified in the substitute amendment.

### **Companion Legislation**

Senate Substitute Amendment 3 to 2005 Senate Bill 483 is companion legislation to, and thus identical to, Assembly Substitute Amendment 3 to 2005 Assembly Bill 892.

### **Legislative History**

On January 17, 2006, the Assembly Committee on Energy and Utilities offered Assembly Substitute Amendment 1 and recommended adoption of Assembly Substitute Amendment 1 by a vote of Ayes, 11; Noes, 0, and recommended passage of Assembly Bill 892, as amended, by a vote of Ayes, 10; Noes, 1.

On March 30, 2006, the Joint Committee on Finance offered Assembly Substitute Amendment 3 and recommended adoption of Assembly Substitute Amendment 3 and passage of Assembly Bill 892, as amended, by separate votes of Ayes, 13; Noes, 3.

JES:rv:jal